

1 A. CISNEROS, Trustee  
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6 *Chapter 7 Trustee*  
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8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10 **SANTA ANA DIVISION**

11 In re:

12 JEFFREY S. BEIER,

13 Debtor.

Case No. 8:23-bk-10898-TA

Chapter 7

14 **CHAPTER 7 TRUSTEE'S APPLICATION TO**  
**EMPLOY REAL ESTATE BROKER;**  
**DECLARATION OF BRIAN THOMPSON IN**  
**SUPPORT THEREOF**

15  
16 **[10 Tucson, Coto De Caza, California 92679]**

17 **[No Hearing Required Pursuant to Local**  
**Bankruptcy Rules 2014-1 (b)(1)]**

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24 **TO THE HONORABLE THEODOR C. ALBERT, UNITED STATES BANKRUPTCY JUDGE;**  
25 **THE OFFICE OF THE UNITED STATES TRUSTEE, DEBTOR, DEBTOR'S COUNSEL, AND**  
26 **OTHER INTERESTED PARTIES:**

27 The Application of the Chapter 7 Trustee, A. Cisneros ("Trustee" or "Applicant"), respectfully  
28 represents that:

1           **A.     The Filing of the Petition and Subject Property.**

2           1.     This case was commenced on April 28, 2023, with the filing of a petition under Chapter  
3 11 of the Bankruptcy Code (“Petition”).

4           2.     Debtor’s previous Chapter 7 petition, filed on March 17, 2023, was dismissed on April 4,  
5 2023.

6           3.     In his Schedules, Debtor identified his ownership of the real property commonly known  
7 as 10 Tucson, Coto De Caza, California 92679 (“Property”), valued it at \$3,117,300, and identified a  
8 \$2,757,616 lien against it in favor of Bank of America, N.A. (“BOA”).

9           4.     On July 7, 2023, the case was converted to Chapter 7.

10           5.     After the conversion of the case, the Trustee was appointed as Chapter 7 Trustee.

11           **B.     The Motion to Extend the Automatic Stay and Motion to Dismiss or Convert.**

12           6.     On May 2, 2023, Debtor filed a Motion to Extend the Automatic Stay (“Motion to  
13 Extend”), which was initially set for hearing on May 23, 2023 and continued to June 27, 2023.

14           7.     On May 10, 2023, the Office of the United States Trustee filed a Motion to Dismiss or  
15 Convert Debtor’s case.

16           8.     On May 11, 2023, BOA filed an opposition to the Motion to Extend.

17           **C.     The Stipulation to Appoint a Chapter 11 Trustee and Appointment of Trustee.**

18           9.     On Jun 2, 2023, Debtor and the Office of the United States Trustee stipulated to  
19 appointment of a Chapter 11 Trustee.

20           10.    On June 7, 2023, Trustee was appointed as the Chapter 11 Trustee of Debtor’s  
21 bankruptcy estate.

22           11.    On June 27, 2023, at the continued hearing on the Motion to Extend, the Court continued  
23 the automatic stay for a further 30 days from entry of an order on the Motion to Extend.

24           12.    Trustee is the appointed, qualified, and is the acting Chapter 7 Trustee for Debtor’s  
25 bankruptcy estate (“Estate”).

26           **D.     Trustee’s Proposed Retention of Brian Thompson to Market and Sell the Property.**

27           13.    Based on Applicant’s consultation with a real estate professional and the condition of the  
28 Property, the Applicant has agreed to list the Property at \$3,000,000.

1       14. Brian Thompson (“Broker”) of Winterstone Real Estate and Development is prepared to  
2 undertake a specific marketing program to sell the Property. Therefore, the Applicant intends to enter  
3 into a Residential Listing Agreement (“Listing Agreements”) with Broker, a copy of which is attached to  
4 the accompanying declaration of Broker as Exhibit “1.”

5       12. The Listing Agreement provides for sales commission of 5%, unless Broker represents  
6 both Trustee and the buyer, in which case sales commission shall be 4%.

7       13. Considering the type and number of properties currently available in the respective area,  
8 the Applicant believes the proposed sale commissions are fair and reasonable to ensure a successful  
9 marketing program.

10       14. Any disputes relating to the Listing Agreements shall be subject to the sole and exclusive  
11 jurisdiction of the Bankruptcy Court, sitting without a jury.

12       15. Any sale shall be subject to the notice and hearing requirements provided in Title 11 of  
13 the United States Code.

14       16. Broker has undertaken the promotion of the Property pending this Court’s approval of  
15 Broker’s employment. Broker’s Statement of Disinterestedness is included in the accompanying  
16 declaration of Broker. Broker will be primarily responsible for marketing the Property. Broker’s  
17 Curriculum Vitae is attached to the accompanying declaration of Broker as Exhibit “2” and is  
18 incorporated herein by this reference.

19       17. The Declaration of Broker, *inter alia*, provides that Broker has no interest in the Property  
20 or in this Estate adverse to Debtor or to the Estate. Broker is a disinterested person as defined in §  
21 101(14) of Title 11 of the United States Code.

22       18. The Applicant alleges that the Listing Agreement terms are fair, equitable, and in the best  
23 interests of this Estate. The Applicant further alleges that the employment of Broker under the terms  
24 agreed upon as stated herein should be approved.

25       19. Broker has been advised of and has agreed to accept employment under 11 U.S.C. § 327  
26 and subject to the provisions of 11 U.S.C. § 328(a) and Broker understands that, notwithstanding  
27 approval of his employment by this Court in accordance with the terms herein, the Court may allow  
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1 compensation different from the compensation provided under the terms of the agreement between the  
2 parties, if such proves to have been improvident in light of developments that could not have been  
3 reasonably anticipated at the time of filing of such terms.

4 **WHEREFORE**, the Applicant prays that the employment of Brian Thompson be approved upon  
5 the terms and conditions set forth in the foregoing Application and Listing Agreements.

6  
7 DATED: July 17, 2023

  
8 A. CISNEROS  
9 *Chapter 7 Trustee*

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## **DECLARATION OF BRIAN THOMPSON**

I, Brian Thompson of Winterstone Real Estate and Development, declare as follows:

1. The matters stated herein are true and correct and within my personal knowledge. If called as a witness, I could and would competently testify thereto.

2. I am a real estate broker, duly licensed in the State of California, and am the principal of Winterstone Real Estate and Development ("Broker").

3. I make this Declaration in support of Chapter 7 Trustee A. Cisneros's Application to Employ Real Estate Broker, filed concurrently herewith.

9       4. I have agreed to list, show, and sell the bankruptcy estate's interest in the real property  
10 commonly known as 10 Tucson, Coto De Caza, California 92679 ("Property"); to represent Trustee as  
11 the Seller in connection with the sale of the Property; and advise Trustee with respect to obtaining the  
12 highest and best offers available in the present market.

13        5. I have examined the Property, reviewed comparable sales, and have provided Trustee  
14 with a report of my findings and recommendations with regard to the sale of the Property. I have also  
15 conducted an investigation of title and lien information with regard to the Property and provided the  
16 same to Trustee in my report. My suggested listing price is \$3,000,000.

17       6.     Trustee intends to enter into Residential Listing Agreement ("Agreement") with me, a  
18 copy of which is attached hereto as Exhibits "1.".

19       7.     In consideration for the services rendered by me, and subject to further application and  
20 Court order, I will receive, upon consummation of any such sale, sales commissions as set forth in the  
21 foregoing Application.

22       8.       I am familiar with the foregoing Application and the aforementioned Property and believe  
23 that I am qualified to represent Trustee and Debtor's estate in connection with the marketing of the  
24 Property.

25        9. I have agreed to accept employment on the terms and conditions set forth in the  
26 Application. Attached hereto and incorporated herein as Exhibit "2" is a copy of my Curriculum Vitae.

27        10. I have been informed and understand that no sale of the Property may be consummated  
28 until after (1) notice to creditors with the opportunity for a hearing on the proposed sale; and (2) entry of

a Court Order approving the sale.

11. I have agreed and understand that notwithstanding the terms and conditions of employment herein set forth, that the Court may allow compensation different from the compensation provided herein if such terms and conditions prove to be improvident in light of developments unanticipated at the time of the fixing of such terms and conditions.

12. I do not have a pre-petition claim against Debtor's Estate.

13. I have not received a retainer for the services to be performed for Trustee and Debtor's Estate.

9       14. To the best of my knowledge, other than being employed by Trustee in other non-related  
10 matters or bankruptcy cases, I do not have any connection with Trustee, Trustee's attorneys or  
11 accountants, Debtor, Debtor's attorneys or accountants, Debtor's creditors, the United States Trustee, or  
12 any person employed in the office of the United States Trustee, or any other outside party in interest, or  
13 their respective attorneys or accountants.

15. To the best of my knowledge, I do not have an interest adverse to Debtor or the Estate.

15        16. To the best of my knowledge, I am a "disinterested person" as the term is defined in 11  
16 U.S.C. § 101(14).

17 I declare under penalty of perjury, according to the laws of the United States of America, that  
18 the foregoing is true and correct and this declaration was executed at Lake Forest, California  
19 on July 17, 2023.

  
BRIAN THOMPSON

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

2112 Business Center Dr., Irvine, CA 92612

A true and correct copy of the foregoing document entitled (specify): **CHAPTER 7 TRUSTEE'S APPLICATION TO EMPLOY REAL ESTATE BROKER; DECLARATION OF BRIAN THOMPSON IN SUPPORT THEREOF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) **July 27, 2023**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

**OFFICE OF U.S. TRUSTEE:** United States Trustee (SA) [ustpregion16.sa.ecf@usdoj.gov](mailto:ustpregion16.sa.ecf@usdoj.gov)  
**CHAPTER 7 TRUSTEE:** Arturo Cisneros (TR) [amctrustee@mclaw.org](mailto:amctrustee@mclaw.org), [acisneros@iq7technology.com](mailto:acisneros@iq7technology.com);  
[ecf.alert+Cisneros@titlexi.com](mailto:ecf.alert+Cisneros@titlexi.com)

Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (date) **July 27, 2023**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

**DEBTOR:** Jeffrey S Beier, P O Box 7644, Laguna Niguel, CA 92677

**NOTICE:** Brian Thompson, Winterstone Real Estate Development, 23792 Rockfield Blvd., Ste. 101, Lake Forest CA 92630

Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served):** Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) **November 10, 2022**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

July 27, 2023

Date

Diep Quach

Printed Name

/s/ Diep Quach

Signature

**SECTION 1 CONT.**

DEBTOR'S ATTORNEY: Anerio V Altman LakeForestBankruptcy@jubileebk.net, lakeforestpacer@gmail.com  
NOTICE: Greg P Campbell ch11ecf@aldridgeppte.com, gc@ecf.inforuptcy.com;gcampbell@aldridgeppte.com  
NOTICE: Arturo Cisneros arturo@mclaw.org, CACD\_ECF@mclaw.org  
NOTICE: Michael J Hauser michael.hauser@usdoj.gov